

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Key Emarri Burton,

Petitioner

v.

Gabriela Najera, *et al.*,

Respondents

Case No.: 2:23-cv-00753-APG-BNW

Order Denying Motion for Counsel

[ECF No. 15]

In his 28 U.S.C. § 2254 habeas corpus petition Key Emarri Burton challenges his Clark County Nevada conviction, pursuant to a guilty plea, of attempted murder. ECF No. 6. Burton has now filed a motion for appointment of counsel. ECF No. 15.¹ I find that counsel is not warranted in this case, so I deny the motion.

There is no constitutional right to appointed counsel in a federal habeas corpus proceeding. *Luna v. Kernan*, 784 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336–37 (2007)). Whenever the court determines that the interests of justice so require, counsel may be appointed to any financially eligible person who is seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). “[T]he district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Here, Burton alleges in the petition’s two grounds that because his plea counsel rendered ineffective assistance, he did not knowingly, intelligently, and voluntarily enter into the guilty plea agreement. ECF No. 6. Burton presents his claims clearly and the legal issues do not appear to be particularly complex. Therefore, I deny the motion for appointment of counsel.

¹ The respondents opposed, and the petitioner replied. ECF Nos. 16, 18.

1 I THEREFORE ORDER that the petitioner's motion for appointment of counsel (ECF
2 **No. 15) is denied.**

3 I FURTHER ORDER that the petitioner must file his opposition to the motion to dismiss
4 (ECF No. 9), if any, by May 17, 2024. The court is highly unlikely to grant any further extension
5 of time.

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7 DATED this 17th day of April, 2024.

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10 ANDREW P. GORDON
11 UNITED STATES DISTRICT JUDGE
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